

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

| | | |
|-------------------------|---|--------------------|
| IN RE: |) | Case No.: 09-10332 |
| |) | Chapter 11 |
| THE HAMMOCKS, LLC |) | |
| d/b/a RICHMOND HILL INN |) | |
| |) | |
| Debtor(s) |) | |

**RESPONSE IN SUPPORT OF THE INTERNAL REVENUE SERVICE'S MOTION TO
CONVERT TO CHAPTER 7**

The Office of the United States Bankruptcy Administrator for the Western District of North Carolina ("Bankruptcy Administrator") supports The United States of America, on behalf of the Internal Revenue Service's ("The Service") Motion to Convert the Debtor's case to Chapter 7 ("Motion to Convert") and says:

1. The Bankruptcy Administrator agrees with and supports Service's Motion to Convert the Debtor's case, for which a voluntary petition was filed on March 25, 2009, to Chapter 7 and incorporates the Motion to Convert herein by reference. The Bankruptcy Administrator does not support the Service in the Motion to Dismiss at this time due to the pending adversary proceeding.
2. In further support of the Motion to Convert, the Monthly Status Reports ("Reports") filed by the Debtor show a continuing loss, to wit:
 - a. January, 2010 Report
 - i. The only cash receipts were a \$25,000.00 loan from Emily Grey and \$1,600.00 advance deposits.
 - ii. The ending cash position was negative \$9,038.05.
 - iii. The new DIP operating account with Carolina First Bank with an account number ending in 680 had a negative balance of \$14,982.89.
 - iv. There were no sales or accounts receivable during the reporting period.
 - v. The total accrued post petition liabilities were \$14,408.88.
 - vi. Under affirmations, the Debtor answered "Yes" to "All tax returns have been timely filed and payments made. Copies of returns have

been filed post-petition have been submitted to the Bankruptcy Administrator.” The Debtor answered “No” to “All post-petition taxes have been paid or deposited into a designated tax account.”

b. February, 2010 Report

- i. The only cash receipts were a \$16,000.00 loan from Emily Grey, \$790.00 advance deposits and \$30.96 utility refund.
- ii. The ending cash position was negative \$7,654.10.
- iii. The new DIP operating account with Carolina First Bank with an account number ending in 680 had a negative balance of \$14,982.89.
- iv. There were no sales or accounts receivable during the reporting period.
- v. The total accrued post petition liabilities were \$12,415.77.
- vi. Under affirmations, the Debtor answered “Yes” to “All tax returns have been timely filed and payments made. Copies of returns have been filed post-petition have been submitted to the Bankruptcy Administrator.” The Debtor answered “No” to “All post-petition taxes have been paid or deposited into a designated tax account.”

c. March, 2010 Report

- i. The only cash receipts were a \$10,000.00 loan from Emily Grey and \$380.00 advance deposits.
- ii. The ending cash position was negative \$9,695.85.
- iii. The new DIP operating account with Carolina First Bank with an account number ending in 680 had a negative balance of \$14,982.89.
- iv. There were no sales or accounts receivable during the reporting period.
- v. The total accrued post petition liabilities were \$7,131.51.
- vi. Under affirmations, the Debtor answered “Yes” to “All tax returns have been timely filed and payments made. Copies of returns have been filed post-petition have been submitted to the Bankruptcy

Administrator.” The Debtor answered “Yes” to “All post-petition taxes have been paid or deposited into a designated tax account.”

d. April, 2010 Report

- i. The only cash receipts were a \$16,000.00 loan from Emily, \$150.85 disputed credit card and \$225.00 select registry.
- ii. The ending cash position was negative \$6,540.56.
- iii. The new DIP operating account with Carolina First Bank with an account number ending in 680 had a negative balance of \$14,982.89.
- iv. There were no sales or accounts receivable during the reporting period.
- v. The total accrued post petition liabilities were \$9,265.85.
- vi. Under affirmations, the Debtor answered “Yes” to “All tax returns have been timely filed and payments made. Copies of returns have been filed post-petition have been submitted to the Bankruptcy Administrator.” The Debtor answered “Yes” to “All post-petition taxes have been paid or deposited into a designated tax account.”

e. May, 2010 Report

- i. The only cash receipt was a \$20,000.00 loan from Emily Grey.
- ii. The ending cash position was negative \$10,642.19.
- iii. The new DIP operating account with Carolina First Bank with an account number ending in 680 had a negative balance of \$14,982.89.
- iv. There were no sales or accounts receivable during the reporting period.
- v. The total accrued post petition liabilities were \$8,318.02.
- vi. Under affirmations, the Debtor answered “Yes” to “All tax returns have been timely filed and payments made. Copies of returns have been filed post-petition have been submitted to the Bankruptcy Administrator.” The Debtor answered “Yes” to “All post-petition taxes have been paid or deposited into a designated tax account.”

- f. The Debtor affirmed that it had paid all post-petition taxes in the March, April and May, 2010 reports. However, according to the Service's Motion the Debtor has failed to file employment tax returns for 2009.
 - g. The only appreciable receipts reported are loans from Emily Grey, which total \$87,000.00 for 2010, and for which the Debtor has failed to obtain court approval.
3. The Plan proposed by the Debtor is one of liquidation.

Wherefore, the undersigned supports the Motion to Convert to Chapter 7 filed by The Internal Revenue Service and for such other and further relief as the Court deems just and proper.

Dated: July 14, 2010

/s/Alexandria P. Kenny
Alexandria P. Kenny
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CERTIFICATE OF SERVICE

The undersigned certifies that the pleading(s) or paper(s) to which this Certificate is affixed was served upon the party(s) to this action listed below by depositing a copy of the same, enclosed in a first-class postpaid, properly addressed wrapper, in a Post Office or official depository under the exclusive care and custody of the United States Postal Service and/or by means of the Electronic Filing System of the Bankruptcy Court on July 14, 2010.

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/s/Alexandria P. Kenny
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